

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LUIS ROSALES,

Plaintiff,

07 Civ. 10554 (LAP) (DFE)

- against -

MEMORANDUM AND ORDER

This is not an ECF case

BRIAN FISCHER, Defendant #1;
EDWARD J. SWEENEY, Defendant #2;
H. KIHENDALL, Defendant #3;
LUCIEN J. LeCLAIRE, Defendant #4;
KEITH F. DUBRAY, Defendant #5;
LESTER N. WRIGHT, Defendant #6;
HOLLY A. COLLETT, Defendant #7;
ENNE MARTONE, Defendant #8;
KAREN BELLAMY, Defendant #9;
ROBERT E. ERCOLE, Defendant #10;
LUCAS [Deputy Superintendent
at Green Haven Correctional
Facility], Defendant #11;
B. LIGHT, Defendant #12;
W. KELLY, Defendant #13;
B. HOPE, Defendant #14;
PURCELL, Defendant #15;
CEFALONI, Defendant #16;
D. WILLIAMS, Defendant #17;
BETSY KELLY, Defendant #18; and
JOHN SERHAN [incorrectly named
as JOHN SHANE], Defendant #19,

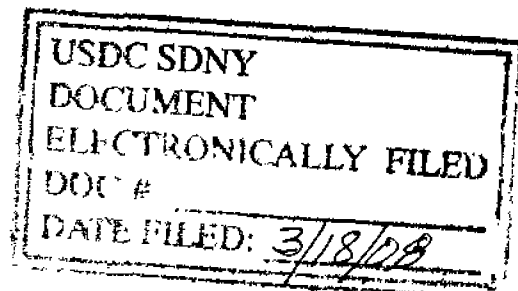
Defendants.

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DOUGLAS F. EATON, United States Magistrate Judge.

I am responding to plaintiff's March 10, 2008 letter to me. On February 10, 2008, he filled out the Form USM 285 and asked the Marshal's Office to serve "John Shane, Audiologist" at Green Haven Correctional Facility. The Marshal's Office mailed the Summons and Complaint to that addressee, but Green Haven returned the envelope, saying "No such name." Plaintiff's letter asked for my assistance. At my request, my law clerk contacted AAG Nowve, who informed her as follows. The reason why the U.S. Marshal's Office was unable to effectuate service was because the correct name of the defendant audiologist is John Serhan, not John Shane.

On March 18, I requested the U.S. Marshal's Office to re-

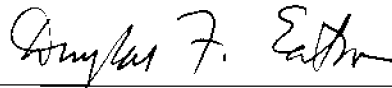


mail the Summons and Complaint to: John Serhan, Consulting Audiologist, Green Haven Correctional Facility, P.O. Box 4000, Stormville, NY 12582-0010. I direct AAG Nowve to alert Green Haven's mail room that the Summons and Complaint will be coming, and that they should be forwarded to Mr. Serhan, and that the Complaint incorrectly named Mr. Serhan as John Shane (Defendant #19).

I hereby give plaintiff an extension until April 18, 2008 to complete the service of the Summons and Complaint upon Mr. Serhan (and any other defendant who has not yet been served.) To effectuate service, plaintiff must fill out the forms provided to him by this Court's Pro Se Office and forward them to the U.S. Marshal's Office as soon as possible. If plaintiff needs more forms, then he should promptly request them from the Pro Se Office. The address of the Pro Se Office is Room 230, United States Courthouse, 500 Pearl Street, New York, NY 10007, and their telephone number is (212) 805-0175. If plaintiff does not, by April 18, 2008, send me proof of service or good reasons for his failure to make service, then I will recommend that Judge Preska dismiss this lawsuit as to any unserved defendant.

I hereby give all defendants an extension until May 6, 2008 to serve and file a motion or answer in response to the Complaint.

On any future letter or document that Mr. Rosales sends to me, he must include a signed certification that he has mailed a true copy to Donald Nowve at the address shown below.



DOUGLAS F. EATON
United States Magistrate Judge
500 Pearl Street, Room 1360
New York, New York 10007
Telephone: (212) 805-6175
Fax: (212) 805-6181

Dated: New York, New York
March 18, 2008

Copies of this Memorandum and Order are being sent by mail to:

Luis Rosales
(91-A-3067)
Wende Correctional Facility
Wende Road
P.O. Box 1187
Alden, NY 14004-1187

Donald Nowve, Esq.
Assistant Attorney General
State of New York
120 Broadway
New York, NY 10271-0332
(also by fax to 212-416-6075)

Pro Se Office
U.S. District Courthouse
500 Pearl Street, Room 230
New York, NY 10007

U.S. Marshal's Office

Hon. Loretta A. Preska